

REMARKS

Favorable and prompt allowance of the pending claims in the application is respectfully requested on the basis of the following particulars.

1. In the claims

In the AMENDMENT TO THE CLAIMS, independent claims 12, 22 and 23 are each amended. Claim 17 is cancelled. The remaining claims depend from claim 12, and remain unchanged.

Claim 12 is amended to clarify that the first facing layer is directly secured to the border portion of the backing layer. Support for this amendment is found by way of at least Figs. 17 and 18.

Claims 22 and 23 are both amended to recite that the apertures are "formed irrespective of the proximal surface of the absorbent core." Support for this amendment is found in the written description at page 10, 1<sup>st</sup> full paragraph. It will be noted that this language is similar to the language used in allowed U.S. patent 7,230,154 (serial number 10/725,561) which claims the same priority of the instant application.

Claim 23 further recites that the facing layer is a hydrophobic silicone gel having an uninterrupted thickness. Support for this amendment is found by way of Figs. 17 and 18, and the corresponding sections in the specification.

Claim 17 is cancelled to overcome the inconsistency identified in the action. Claim 18 is amended to depend from claim 12.

It is submitted that the amendment to the claims does not introduce new matter into the application. Entry of the amendment to the claims is respectfully requested in the next Office communication.

2. Rejection of claim 17 and 18 under 35 U.S.C. § 112, first paragraph

Withdrawal of this rejection is respectfully requested in view of the cancellation of claim 17 and the amendment to claim 18.

3. Rejection of claims 12, 14-19 and 22 under 35 U.S.C. § 103(a) as being unpatentable over U.S. patent 7,005,143 (*Abuelyaman*)

Reconsideration of the rejection of the claims is courteously petitioned in view of the amendment to the claims and the following remarks concerning each of the independent claims 12, 22 and 23.

a. Claim 12

Claim 12 is currently rejected as being obvious over U.S. patent 7,005,143 (*Abuelyaman*). Pending claims 14-16 and 18-20 depend from claim 12 and are patentable based on their dependency from claim 12 and their individual features.

This rejection is respectfully traversed on the basis that *Abuelyaman* fails to teach or suggest all of the features required by claim 12. Furthermore, the rejection fails to provide the sufficient factual underpinnings which demonstrate how the skilled person would understand from *Abuelyaman* to modify the basic embodiments described therein without the benefit of the applicant's own disclosure.

First, the applicant kindly disagrees that *Abuelyaman* discloses a skin-adherent hydrophobic silicone gel based second facing layer having a plurality of apertures that is directly secured to and coextensive with the proximal surface of an absorbent core. The rejection equates the second absorbent layer of *Abuelyaman* which, as will be clearly pointed out from explicit teachings of *Abuelyaman*, is substantially different from the second facing layer required by claim 12.

The skilled person would not understand the "second absorbent layer" of *Abuelyaman* as the same as the second facing layer required by claim 12. The second absorbent layer of *Abuelyaman* is particularly described in col. 15, lines 11-50, and is not depicted in any illustration in *Abuelyaman*.

Contrary to the requirement of claim 12 that the second facing layer is a skin-adherent hydrophobic gel, the second absorbent layer of *Abuelyaman* is generally hydrophilic by the definition provided by *Abuelyaman*. *Abuelyaman* particularly attaches a defined meaning to the term "absorbent" as a material that is "preferably

capable of absorbing fluids, particularly body fluids, and preferably moderate to heavy amounts of body fluids, while retaining its structural integrity” (2:14-17). In no manner is there any understanding provided by *Abuelyaman* which would lead the skilled person to believe or consider the second absorbent layer as being a hydrophobic silicone gel.

The rejection attempts to establish that indeed the second absorbent layer of *Abuelyaman* is hydrophobic, but it appears that the rejection’s understanding is misplaced. *Abuelyaman* explains that while hydrophobic monomers may be included in the absorbent gel layers thereof, these hydrophobic monomers are merely added to control the absorbency and improve the strength of the gel layers (10:1-12; 11:11-19). As such, the absorbent layers never lose their absorbency; it is only modified. Further, *Abuelyaman* cautions against adding too much of a hydrophobic monomer, presumably so as not to lose the absorbent nature of the gel layer, as explained by the maximum ranges provided in the specification (11:57-67).

From these observations, it is clear that the skilled person would not understand to provide the hydrophobic and skin-adherent silicone gel facing layer over the proximal surface of the absorbent core of claim 12.

Having established that the inherent properties of the second absorbent layer would not be understood by the skilled person as the second facing layer required by claim 12, we now turn to how the arrangement of the second absorbent layer of *Abuelyaman* with the other wound dressing components thereof would not be understood as the wound dressing components recited by claim 12.

There is no teaching in *Abuelyaman* which would suggest to the skilled person to provide the second absorbent layer as a facing layer which forms part of the bodysurface of the wound dressing thereof. *Abuelyaman* explains that the second absorbent layer is provided to serve as a barrier to the first absorbent gel layer and the wound, so as to tie the first absorbent layer to a wound facing layer or the wound itself (15:31-42). There is no mention or specific understanding in *Abuelyaman* that would motivate the skilled person to solely use a second absorbent layer as the

bodyside of the wound dressing, and the rejection likewise fails to factually establish or provide sufficient rationale as to this point.

In understanding *Abuelyaman*, it is clear that it is desirable to provide a facing layer that does not allow liquid water to pass therethrough (16:6-10). In no manner is there any teaching or suggestion that the facing layer of *Abuelyaman* is absorbent as is the second absorbent layer thereof. While it is true that *Abuelyaman* teaches that the facing layer may be a fluid permeable barrier (15:51-53), it explains that liquid only passes through areas thereof that are positively perforated (16:6-10). From these points, it is readily apparent that the skilled person would not understand from *Abuelyaman* to replace the facing layer with the second absorbent layer thereof.

Accordingly, contrary to the assertion in the rejection, the skilled person would not understand to place the facing layer of *Abuelyaman* only along the periphery of the first absorbent layer at the border portion of the bodyside of the dressing, and consequently allow for the second absorbent layer to form a center portion of the bodyside of the dressing and corresponding to the first absorbent layer. Thus, *Abuelyaman* does not teach the first and second facing layers required by claim 12, and the arrangement thereof. As such, these first and second facing layers of claim 12 are not known elements in the prior art and their combination is not predictable in view of the teachings of *Abuelyaman*.

While *Abuelyaman* explains that an adhesive may be applied to the facing layer (18:49-67), there is no hint that the facing layer itself has any skin adherent properties, as required by claim 12. Thus, the facing layer of *Abuelyaman* does not qualify as the skin-adherent, hydrophobic silicone gel second layer of claim 12.

Next, in view of the amendment to claim 12, it is submitted that *Abuelyaman* does not disclose a first skin adherent facing layer which is “directly” applied to only the border portion of the backing layer.

Lastly, it will be pointed out that there is no accounting in the action that the first and second facing layers are contiguous with one another. From *Abuelyaman* it is explained that the facing and/or backing layer may be attached or bonded to the

adjacent surface of the gel layer to form a contiguous layer construction (17:56-18:10). There is no understanding of two facing layers which are contiguous with one another generally along the bodyside surface of wound dressing.

In view of claim 12, because the second facing layer corresponds to the absorbent core and is located next to the first facing layer, which is carried by the backing layer and is contiguous with the second facing layer, the bodyside surface of the dressing is continuous. In observing Fig. 1 of *Abuelyaman*, it is apparent that there is gap between the backing layer (18) and the side portion of the first gel absorbent layer (12). The skilled person would not understand from this embodiment in *Abuelyaman*, or any of the other teachings of *Abuelyaman* to construct a dual facing layer bodyside surface in the continuous manner required by claim 12.

From the inherent nature of the components and construction of the wound dressing of *Abuelyaman*, it is kindly maintained that one having ordinary skill in the art of wound dressings and materials processing would not understand to make a wound dressing having the particular features and construction required by amended claim 12.

As such, withdrawal of the rejection of claims 12, 14-16 and 18-20 is respectfully requested.

b. Claim 22

Reconsideration of this rejection is respectfully requested in view of the amendment to claim 22 and the following observations.

The observations on the nature of the second absorbent layer of *Abuelyaman* with regard to claim 12, are equally applicable to the requirement of the continuous hydrophobic silicone gel facing layer of claim 22.

Furthermore, there is no teaching or suggestion in *Abuelyaman* that the facing layer thereof is a silicone gel. The rejection provides no basis in *Abuelyaman* for such an assertion. The hydrophobic monomers discussed in *Abuelyaman* do not pertain to the facing layer but instead relate to the absorbent layers. Further, in view of the

numerous examples in *Abuelyaman* of suitable facing layers (17:1-48), there is never any mention of using a skin adherent hydrophobic silicone gel. Indeed, *Abuelyaman* teaches that a pressure sensitive adhesive may be applied to the facing layer to obtain skin adherent properties. In no manner is there any hint at making a facing layer itself having skin adherent properties.

As such, the rejection fails to show how it would be known to provide a silicone gel facing layer in combination with the wound dressing of *Abuelyaman*. Further, there is no indication of how a silicone gel facing layer would be a simple substitution with the facing layer of *Abuelyaman*.

Claim 22 is amended to recite that the silicone gel facing layer is directly secured to the absorbent core and that the apertures of the silicone gel facing layer are formed irrespective of the proximal surface of the absorbent core. It is submitted that this particular requirement of securing a silicone gel layer on an absorbent core is not known, and would not have been achieved from the understanding of the skilled person and the teachings of *Abuelyaman* with any degree of predictability.

It is clear from these observations that *Abuelyaman* fails to disclose or hint at teaching every feature required by amended claim 22. Accordingly, withdrawal of this rejection is respectfully requested.

4. Rejection of claim 23 under 35 U.S.C. § 103(a) as being unpatentable over U.S. patent 7,005,143 (*Abuelyaman*) in view of U.S. patent application publication 2003/0120229 (*de Jong*)

Reconsideration of this respectfully requested in view of the amendment to claim 23 and the following observations.

The observations on amended claims 12 and 22 equally apply to amended claim 23 with regard to the silicone gel facing layer. Further, the observations on amended claim 22 with regard to the apertures in the facing layer being formed irrespective of the proximal surface of the absorbent are also applicable to claim 22.

In particular, since this claim requires that the absorbent core is polymeric foam, the silicone gel layer must be applied in a manner so as to not be drawn into cells, pores or holes located along the proximal surface of the absorbent core. Moreover, the apertures in the silicone gel layer are preformed or formed independently from the surface structure of the polymeric foam.

As for the limitation that the silicone gel layer has an uninterrupted thickness, this is intended to mean that the silicone gel is discrete, stand-alone and not itself reinforced or impregnated by a substrate material.

It is asserted in view of these observations that *Abuelyaman* fails to disclose or hint at teaching every feature required by amended claim 23. Accordingly, withdrawal of this rejection is respectfully requested.

5. Conclusion

As a result of the amendment to the claims, and further in view of the foregoing remarks, it is respectfully submitted that the application is in condition for allowance. Accordingly, it is respectfully requested that every pending claim in the present application be allowed and the application be passed to issue.

If any issues remain that may be resolved by a telephone or facsimile communication with the applicants' attorney, the examiner is invited to contact the undersigned at the numbers shown below.

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Respectfully submitted,



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